Office - Supreme Court, U. S.
FILED
JUN 12 1952
CHARLES ELMORE CROPLEY
CLERK

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1951

No. 414

SAMUEL MANDEL, Administrator of the Estate of Robert Willie Dillehay, Jr.,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR PERMISSION TO FILE AMICI CURIAE BRIEF IN SUPPORT OF A PETITION FOR A REHEARING.

BELLI, ASHE & PINNEY,
MELVIN M. BELLI,
LOU ASHE,
VAN H. PINNEY,
240 Stockton Street, San Francisco 8, California,
Amici Curiae.

Table of Authorities Cited

	Page
Gerardo v. United States, No. 25081-G	2
Gibbs v. United States of America, 94 F. Supp. 586	3
Kaye v. United States, No. 25123-G	2
Key v. United States, No. 25267-H	2
Quimpo v. United States, No. 25083-R	2
Starkey v. United States, No. 25266-R	2
Webb v. United States, No. 25413-R	2

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1951

No. 414

SAMUEL MANDEL, Administrator of the Estate of Robert Willie Dillehay, Jr.,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR PERMISSION TO FILE AMICI CURIAE BRIEF IN SUPPORT OF A PETITION FOR A REHEARING.

To the Honorable Fred M. Vinson, Chief Justice, and to the Honorable Associate Justices of the Supreme Court of the United States of America:

Petitioning counsel were informally advised on May 28, 1952 of this Honorable Court's decision of

May 26, 1952 in the case at bar. On this latter date, Abraham E. Freedman, Esquire, Philadelphia, Pennsylvania, counsel for petitioner, graciously granted his consent, via long distance telephone, to these petitioning counsel, for permission to file *amici curiae* brief supporting petitioner herein.

On May 29, 1952, Leavenworth Colby, Esquire, Special Assistant to the Attorney General of the United States and one of counsel for respondent, was contacted by long distance telephone. Although not disposed to granting his consent, he did state considerately that "there is no objection" to the filing of *amici curiae* brief.

Since the exigencies of time offered little alternative in the matter of procuring consent of counsel and of this Honorable Court for leave to file brief *amici curiae*, we respectfully request this Honorable Court's gracious consideration of our petition notwithstanding the inability of counsel to approach the Court with stricter formality.

We are counsel for six libelants in the following named cases, tried in the District Court of the United States for the Northern District of California, Southern Division: *Kaye v. United States*, No. 25123-G; *Quimpo v. United States*, No. 25083-R; *Starkey v. United States*, No. 25266-R; *Webb v. United States*, No. 25413-R; *Gerardo v. United States*, No. 25081-G; and *Key v. United States*, No. 25267-H. (This latter case on appeal to the Circuit Court of Appeals for the 9th Circuit.)

In each of these cases, libelants are the legal representatives of the estates of deceased American seamen, who lost their lives on November 24, 1947, while serving aboard the United States Army Transport *Clarksdale Victory,* operated by the respondent United States of America. The deaths of these seamen were found by the Court to have occurred by reason of the negligence of the respondent United States of America, and various awards were made.

We also represent libelant James C. Gibbs, in *Gibbs v. United States of America,* 94 F. Supp. 586, wherein the Court affirmed the right of a Federally employed *shoreside worker* to elect his remedy and proceed under the Public Vessels Liability Act. Libelant's appeal followed the Court's finding that Gibbs, in accepting hospitalization benefits, had *elected* to proceed under the FECA. This case is now before the Circuit Court of Appeals for the Ninth Circuit and was cited in the minority opinion in the case at bar.

All of the above cases are seriously affected by this Honorable Court's decision in the case at bar. Therefore, the undersigned counsel are directly and deeply interested in having this Honorable Court reconsider this case.

Melvin M. Belli, Esquire, of the firm of Belli, Ashe & Pinney, San Francisco, California, is duly admitted to practice before this Honorable Court; petitioners Lou Ashe and Van H. Pinney are members of the aforesaid firm.

Wherefore, petitioners pray leave of this Honorable Court to file the accompanying brief *amici curiae* on behalf of the petitioner Mandel in the above-entitled matter.

Dated, San Francisco, California,
June 6, 1952.

Respectfully submitted,

BELLI, ASHE & PINNEY,
MELVIN M. BELLI,
LOU ASHE,
VAN H. PINNEY,
Amici Curiae.